

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

Remarks

Reconsideration and allowance of the above referenced application are respectfully requested.

The Examiner is thanked for the telephonic interview conducted on February 12, 2008, during which the points noted below were discussed.

I. General

Initially, new claims 49-54 are added herein to define more information about the barcode. Claims 49-51 are within the elected group as set forth in the restriction response dated May 18, 2005. Claims 52-54 are new and withdrawn, however it is proper to maintain these claims in the case, since generic claims are present.

As discussed in the interview, each of claims 18, 19 and 48 have been amended to emphasize that the information indicative of the sizes of bars and spaces in the barcode is sent to the remote server, without decoding the content of the barcode in the portable communication device. A change for definiteness is also made to claim 48.

II. The Claim Limitation of Sending Numerical Information Indicative of Spaces within the Barcode is Not Disclosed by Ogasawara

The claims as currently pending stand rejected based on prior art including Ogasawara. For reasons set forth herein, this rejection is respectfully traversed.

As part of the rejection, the comment is made that determining sizes of barcode portions and spaces "are well-known and conventional in the art", and states that sizes of the spaces and bars is how data is encoded in barcodes. The undersigned

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understands that in general spacing and edges are used to define a barcode.

However, applicant is not claiming JUST barcode spacing and edges. Claim 18 defines determining sizes of black bars and white spaces within the image of the barcode, to obtain numerical information without decoding the content of the barcode in the portable communication device, and sending that numerical information to a remote server without decoding the content of the barcode in the portable communication device. This is a different way of operation produces advantages that is in no way made obvious by the cited prior art.

The cited prior art in fact operates in a very specific way, and the present claims define operation in a way that produces advantages over that prior art.

Claim 18 defines using a processor within the portable communication device to analyze spacing between elements within the image of the barcode to obtain numerical information indicative of the spacing and sending that numerical information to a remote server. Information from the remote server is received and display on the display of the portable communication device. That information is indicative of what was represented by the barcode.

An unexpected advantage of this system, as compared with prior art like Ogasawara, is that any kind of barcode, now known or later defined, could be decoded in this way. This is because the spacing information between the elements are obtained, numerical information indicative of that spacing is sent to the remote server, and the remote server can handle this information however appropriate. For example, the barcode could be a proprietary format or an encrypted barcode. The portable communication device that obtains the barcode, e.g., the cell phone, does not care at

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all what kind of barcode it is imaging – all it does is obtain numerical information and send that numerical information to the server. The server decodes it. The phone does not need a software upgrade to image new or unrecognized barcodes.

Admittedly, figure 13 of Ogasawara may appear at a quick glance to show decoding a barcode image to numeric barcode data. However, digging a little further into what is really happening there, one sees that a very different kind of operation is carried out. Paragraph 143 explains how a barcode image can be captured and decoded into corresponding data using pattern recognition software. Ogasawara discloses that the decoded data indicative of the barcode can then be sent to the server. However, Ogasawara sends the decoded data itself, not information indicative of the spacing. (An alternative embodiment of Ogasawara apparently sends the whole image to the server.)

However, the present claim 18 defines a very different tactic: it defines analyzing spacing between the elements within the image to obtain numerical information and sending that numerical information to a remote server. This is not done by Ogasawara.

The present system produces advantages that were never contemplated by the cited prior art. For example, the cited prior art contemplates that either decoded data indicative of the barcode is received, or the whole image of the barcode. But what if the image of the barcode is so poor that the decoder cannot decode the barcode? There is no discussion of any way to detect this acquisition of a poor image. A user who takes a picture of only part of the barcode, or takes a picture of too small a barcode (that is with too many other things in the picture) would not have any way of knowing that they did not obtain an adequate image. In contrast, the present system teaches analyzing

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spacing within the portable communication device. Since the portable communication device itself carries out the detection, it can easily determine whether the barcode has been validly received.

In fact, Ogasawara TEACHES AWAY from this kind of sending information without decoding, in paragraph 150. In that paragraph, Ogasawara states that other kinds of non barcode information could be decoded in the same way – alphanumeric, or numeric. Ogasawara teaches that this information could be pattern-recognized in the same way as the barcode. HOWEVER, alphanumeric information, for example, could not be sent as numeric information without decoding, as in claim 18. Accordingly, this section of Ogasawara teaches using codes that could not have their spaces and bars converted to numeric information without decoding, as defined by claim 18 and others. Hence, this section of Ogasawara teaches away from the present claims.

III. Ogasawara does not disclose defining edges of the barcode based on an Acquired Image, or the Advantages that Such Produces

Claim 19 defines finding spaces that are larger than the allowable space and defining edges of the barcode. By defining the edges of the barcode, claim 19 enables feedback to be given to the user, for example, about the proper outlines of the barcode and hence the proper size of the image that should be acquired by the camera.

Admittedly the prior art looked for edges of a barcode previously. However, there is no teaching or suggestion of a processor in a cellular phone acquiring this kind of image, and certainly no disclosure, or anything that makes obvious this claimed subject matter and/or why this would produce any advantages. In fact, by defining edges of the

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barcode within the image, the presently claimed system can enable better feedback to the user about how to capture the barcode.

Ogasawara teaches away from this subject matter; see for example paragraph 147, which says, in essence, all that is required is that the barcode fall within the field of view of the camera. This teaches away from the claimed subject matter (e.g., in claim 19) of finding edge portions and decoding the barcode between those edge portions.

Therefore, in addition to the reasons given above for the patentability of claim 18, claim 19 should be additionally allowable.

Claim 48 include similar limitations and should be allowable for similar reasons.

Claims 28-30 stand rejected under 35 USC 103 as being obvious over Ogasawara in view of Schuessler. This contention is further respectfully traversed. These claims should be allowable by virtue of their dependency. In addition, while Schuessler shows a dual style barcode, applicant notes that it does not disclose overlapping information between the barcodes.

IV. New Claims

In addition, new claims should be allowable. For example, claims 49-51 define that the barcode is used to get more information about an advertisement. Nothing in the prior art is in any way suggestive of using a portable communicator camera for this purpose.

The dependent claims not specifically mentioned herein should be allowable by virtue of their dependency.

It is believed that all of the pending claims have been addressed in this paper.

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However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

If the Examiner believes that communications such as a telephone interview or email would facilitate disposal of this case, the undersigned respectfully encourages the Examiner to contact the undersigned.

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail (using the email address scott@harrises.com). I understand that a copy of these communications will be made of record in the application file.

Please charge any unpaid fees due in connection with this response to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 2/13/08

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